

Assembly Bill No. 1453

CHAPTER 466

An act to add Chapter 12.87 (commencing with Section 18987.7) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to foster care.

[Approved by Governor October 11, 2007. Filed with
Secretary of State October 11, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1453, Soto. Foster care: residentially based services.

Existing law provides for child welfare services, which are public social services directed toward, among other purposes, protecting and promoting the welfare of all children, including those in foster care placement. Existing law provides for the placement of children in foster care in various settings, including group homes, by foster placement agencies, under the oversight of the State Department of Social Services.

Existing law provides for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which, pursuant to a combination of federal, state, and county funds, aid on behalf of eligible children is paid to foster care providers.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities, including group homes, by the State Department of Social Services.

Existing law requires the State Department of Social Services, under the direction of the California Health and Human Services Agency and in collaboration with other appropriate organizations, as specified, to reexamine the role of out-of-home placements currently available for children served within the child welfare services system.

This bill would require the department to convene a workgroup of designated public and private stakeholders that will develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders into a system of residentially based services, as defined. The bill would require the department, by January 1, 2011, to provide a copy of the plan developed by the workgroup to the Legislature. The bill would require the department to encourage counties and private nonprofit agencies to develop voluntary agreements to test alternative program design and funding models to achieve the bill's objectives. The bill would authorize voluntary agreements between counties and nonprofit agencies to transfer all or part of an existing group home program into a residentially based services program, if specified conditions are met, would prohibit the agreements from exceeding 5 years from January 1, 2008, and would authorize the department to waive otherwise applicable regulatory provisions and approve alternative funding

models, in order to facilitate implementation of these agreements. The bill would specify the required characteristics of these alternative funding models.

The bill would also require the department to report during the legislative budget hearings on the status of any county agreements entered into pursuant to these provisions, and on the development of statewide residentially based services programs.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) There is general dissatisfaction with how foster care group homes are currently used in California's child welfare, juvenile justice, and mental health systems. This concern is shared by the state, county placing agencies, the courts, group home providers, children's advocates, and, most importantly, by foster youth and their families.

(b) Under current state law, the role of foster care group homes is not well-defined and outcomes to be achieved for children placed in group homes are poorly articulated. State laws and regulations governing community care licensing and Aid to Families with Dependent Children-Foster Care (AFDC-FC) funding for group homes have not been updated to keep pace with the evolving expectations of the child welfare, juvenile justice, and mental health systems, particularly the new emphasis on finding and providing support for permanent family placements for all foster children before they emancipate to adulthood.

(c) The current AFDC-FC program neither authorizes nor funds group homes to provide services that may be needed by families to achieve reunification, or, when reunification is not possible, to prepare and support relatives or another family willing to provide a permanent home. As a result, many foster children remain in group homes longer than would otherwise be necessary, or they are discharged to another foster care setting without achieving a stable and permanent family living situation.

(d) A comprehensive reform proposal was developed by a broad-based group of stakeholders convened in 2005, titled "Framework for a New System for Residentially-Based Services in California." The recommendations in that document would lead to the transformation of California's current system of foster care group homes into a system of "residentially based services" designed to improve outcomes for foster children by enhancing the quality and scope of care and services provided with the specific objective of expediting a permanent family placement.

(e) The State Department of Social Services has committed to continue to collaborate with stakeholders to achieve fundamental reforms in group care based on the recommendations included in the framework document. However, this is a complex task, which could take two or more years to complete.

(f) There are some counties and private nonprofit agencies operating group home programs that are interested in moving forward now to develop, implement, and test alternative program designs and funding models based on recommendations in the framework document. These counties and provider agencies will not be able to implement reform projects unless they are able to obtain a variety of waivers and approvals which the State Department of Social Services does not now have the authority to grant.

(g) It is the intent of the Legislature in enacting this act to ensure that the State Department of Social Services has the authority necessary to approve voluntary agreements entered into by counties and private nonprofit agencies for the purpose of testing alternative program design and funding models for transforming existing group home programs into residentially based services programs.

SEC. 2. Chapter 12.87 (commencing with Section 18987.7) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12.87. REFORM OF RESIDENTIALLY BASED SERVICES FOR
CHILDREN AND YOUTH

18987.7. (a) The State Department of Social Services shall convene a workgroup of public and private nonprofit stakeholders that shall develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders (SED), into a system of residentially based services. The stakeholders may include, but not be limited to, representatives of the department and of the State Department of Mental Health, the State Department of Education, the State Department of Alcohol and Drug Programs, and the Department of Corrections and Rehabilitation; county child welfare, probation, mental health, and alcohol and drug programs; local education authorities; current and former foster youth, parents of foster children or youth, and children or youth with SED; private nonprofit agencies operating group homes; children's advocates; and other interested parties.

(b) The plan developed pursuant to this chapter shall utilize the reports delivered to the Legislature pursuant to Section 75 of Chapter 311 of the Statutes of 1998 by the Steering Committee for the Reexamination of the Role of Group Care in a Family-Based System of Care in June 2001 and August 2002, and the "Framework for a New System for Residentially-Based Services in California" published in March 2006.

(c) In the development, implementation, and subsequent revisions of the plan developed pursuant to subdivision (a), the knowledge and experience gained by counties and private nonprofit agencies through the operation of their residentially based services programs created under voluntary agreements made pursuant to Section 18987.72, including, but not limited to, the results of evaluations prepared pursuant to paragraph (3) of subdivision (b) of Section 18987.72 shall be utilized.

(d) By January 1, 2011, the department shall provide a copy of the plan developed by the workgroup pursuant to subdivision (a) to the Legislature. The plan shall include, in addition to other requirements set forth in this chapter, any statutory revisions necessary for its implementation.

18987.71. For purposes of this chapter, the following terms shall have the following meanings:

(a) (1) “Residentially based services” means behavioral or therapeutic interventions delivered in nondetention group care settings in which multiple children or youth live in the same housing unit and receive care and supervision from paid staff. Residentially based services are most effectively used as intensive, short-term interventions when children have unmet needs that create conditions that render them or those around them unsafe, or that prevent the effective delivery of needed services and supports provided in the children’s own homes or in other family settings, such as with a relative, guardian, foster family, or adoptive family.

(2) “Residentially based services” shall include the following interventions and services:

(A) Environmental interventions that establish a safe, stable, and structured living situation in which children or youth can receive the comfort, attention, structure, and guidance needed to help them reduce the intensity of conditions that led to their placement in the program, so that their caregivers can identify and address the factors creating those conditions.

(B) Intensive treatment interventions that facilitate the rapid movement of children or youth toward connection or reconnection with appropriate and natural home, school, and community ecologies, by helping them and their families find ways to mitigate the conditions that led to their placement in the program with positive and productive alternatives.

(C) Parallel, predischarge, community-based interventions that help family members and other people in the social ecologies that children and youth will be joining or rejoining, to prepare for connection or reconnection. These preparations should be initiated upon placement and proceed apace with the environmental interventions being provided within the residential setting.

(D) Followup postdischarge support and services, consistent with the child’s case plan, provided as needed after children or youth have exited the residential component and returned to their own family or to another family living situation, in order to ensure the stability and success of the connection or reconnection with home, school, and community.

(b) “County” means a county that enters into a voluntary agreement with a private nonprofit agency to test alternative program designs and funding models pursuant to this chapter, and may include a consortia or consortium of counties.

18987.72. (a) In order to obtain knowledge and experience with which to inform the process of developing and implementing the plan for residentially based services, required by Section 18987.7, the department shall encourage counties and private nonprofit agencies to develop voluntary agreements to test alternative program design and funding models for

transforming existing group home programs into residentially based services programs in order to meet the diverse needs of children or youth and families in the child welfare, juvenile justice, and mental health systems.

(b) (1) With the approval of the department, any counties participating in the federal Title IV-E waiver capped allocation demonstration project pursuant to Section 18260, at their option, and two other counties may enter into and implement voluntary agreements with private nonprofit agencies to transform all or part of an existing group home program into a residentially based services program.

(2) If one or more counties participating in the federal Title IV-E waiver capped allocation demonstration project opts not to enter into a voluntary agreement pursuant to this chapter, the department may select one or more nonwaiver counties. The department may approve up to four counties to participate in the voluntary agreements pursuant to this section.

(3) The department shall select participating counties, based on letters of interest submitted to the department from counties, in consultation with the California Alliance of Child and Family Services and the County Welfare Directors Association.

(c) Voluntary agreements by counties and nonprofit agencies shall satisfy all of the following requirements:

(1) Incorporate and address all of the components and elements for residentially based services described in the “Framework for a New System for Residentially-Based Services in California.”

(2) Reflect active collaboration among the private nonprofit agency that will operate the residentially based services program and county departments of social services, mental health, or juvenile justice, alcohol and drug programs, county offices of education, or other public entities, as appropriate, to ensure that children, youth, and families receive the services and support necessary to meet their needs.

(3) Provide for an annual evaluation report, to be prepared jointly by the county and the private nonprofit agency. The evaluation report shall include analyses of the outcomes for children and youth, including achievement of permanency, average lengths of stay, and rates of entry and reentry into group care. The evaluation report shall also include analyses of the involvement of children or youth and their families, client satisfaction, the use of the program by the county, the operation of the program by the private nonprofit agency, payments made to the private nonprofit agency by the county, actual costs incurred by the nonprofit agency for the operation of the program, and the impact of the program on state and county AFDC-FC program costs. The county shall send a copy of each annual evaluation report to the director, and the director shall make these reports available to the Legislature upon request.

(4) Permit amendments, modifications, and extensions of the agreement to be made, with the mutual consent of both parties and with approval of the department, based on the evaluations described in paragraph (3), and on the experience and information acquired from the implementation and the ongoing operation of the program.

(5) Be consistent with the county's system improvement plan developed pursuant to the California Child Welfare Outcomes and Accountability System.

(d) (1) Upon a county's request, the director may waive child welfare regulations regarding the role of counties in conjunction with private nonprofit agencies operating residentially based services programs to enhance the development and implementation of case plans and the delivery of services in order to enable a county and a private nonprofit agency to implement an agreement described in subdivision (b). Nothing in this section shall be construed to supersede the requirements set forth in subdivision (c) of Section 16501.

(2) Notwithstanding Sections 11460 and 11462, or any other law or regulation governing payments under the AFDC-FC program, upon the request of one or more counties, and in accordance with the voluntary agreements as described in subdivision (b), the director may also approve the use of up to a total of five alternative funding models for determining the method and level of payments that will be made under the AFDC-FC program to private nonprofit agencies operating residentially based services programs in lieu of using the rate classification levels and schedule of standard rates provided for in Section 11462. These alternative funding models may include, but shall not be limited to, the use of cost reimbursement, case rates, per diem or monthly rates, or a combination thereof. An alternative funding model shall do all of the following:

(A) Support the values and goals for residentially based services, including active child and family involvement, permanence, collaborative decisionmaking, and outcome measurement.

(B) Ensure that quality care and effective services are delivered to appropriate children or youth at a reasonable cost to the public.

(C) Ensure that payment levels are sufficient to permit the private nonprofit agencies operating residentially based services programs to provide care and supervision, social work activities, parallel pre-discharge community-based interventions for families, and followup post-discharge support and services for children and their families, including the cost of hiring and retaining qualified staff.

(D) Facilitate compliance with state requirements and the attainment of federal and state performance objectives.

(E) Control overall program costs by providing incentives for the private nonprofit agencies to use the most cost-effective approaches for achieving positive outcomes for the children or youth and their families.

(F) Facilitate the ability of the private nonprofit agencies to access other available public sources of funding and services to meet the needs of the children or youth placed in their residentially based services programs, and the needs of their families.

(G) Enable the combination of various funding streams necessary to meet the full range of services needed by foster children or youth in residentially based services programs, with particular reference to funding for mental

health treatment services through the Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment program.

(H) Maximize federal financial participation, and mitigate the loss of federal funds, while ensuring the effective delivery of services to children or youth and families, and the achievement of positive outcomes.

(I) Provide for effective administrative oversight and enforcement mechanisms in order to ensure programmatic and fiscal accountability.

(3) A waiver granted by the director pursuant to paragraph (1), or an approval of an alternative funding model pursuant to paragraph (2), shall be applicable only to the development, implementation, and ongoing operation of a residentially based services program and related county activities provided under the terms of the agreement and for the duration of the agreement, and shall be granted only when all of the following apply:

(A) The agreement promises to offer a worthwhile test related to the development, implementation, and ongoing operation of a residentially based services program as described in this chapter.

(B) Existing regulatory provisions or the existing AFDC-FC payment requirements, or both, impose barriers for the effective, efficient, and timely implementation of the agreement.

(C) The requesting county proposes to monitor the agreement for compliance with the terms of the waiver or the alternative funding model, or both.

(D) Neither the waiver nor the alternative funding model will result in an increase in the costs to the General Fund for payments under the AFDC-FC program, measured on an annual basis. This would permit higher AFDC-FC payments to be made when children or youth are initially placed in a residentially based services program, with savings to offset these higher costs being achieved through shorter lengths of stay in foster care, or a reduction of reentries into foster care, as the result of providing pre-discharge support and post-discharge services to the children or youth and their families.

(e) In addition to the requirements set forth in subdivision (c), the voluntary agreements shall do all of the following:

(1) Provide that, to the extent that some of the care, services, and other activities associated with a residentially based services program operated under an agreement described in subdivision (b) are not eligible for federal financial participation as foster care maintenance payments under Part E (commencing with Section 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), but may be eligible for federal financial participation as administration or training, or may be eligible for federal financial participation under other programs, including, but not limited to, Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), the appropriate state departments shall take measures to obtain that federal funding.

(2) Provide that, prior to approving any waiver or alternative funding model pursuant to subdivision (d), the director shall make a determination that the design of the residentially based services program to be operated

under the agreement described in subdivision (b) would ensure the health and safety of children or youth to be served.

(f) Agreements entered into pursuant to this section shall be valid for a period not to exceed five years from January 1, 2008, unless a later enacted statute extends or removes this limitation.

(g) The department shall report during the legislative budget hearings on the status of any county agreements entered into pursuant to subdivision (b), and on the development of statewide residentially based services programs.